

Appl. No. : 10/820,455
Filed : April 8, 2004

REMARKS

Claims 1-43 were pending. With the present Response, Applicants amend Claims 1, 18, 19, and 31-34 and add Claim 44; therefore, Claims 1-44 remain pending for consideration.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-43 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,197,049 to Shaolian, et al. Applicants respectfully traverse the rejection; however, to expedite prosecution, Applicants have amended Claims 1, 18, 19, and 31-34. Applicants reserve the right to pursue previous versions of the amended claims in the future.

Claims 1, 18, 19, and 31-34 have been amended to recite, in one form or another, a sheath configured to inhibit the formation of a viable neointimal layer or prevent tissue ingrowth along a sheath's entire axial length, from a sheath's proximal end to its distal end, or at a sheath's proximal or distal end regions.

Applicants respectfully note that the applied art fails to teach or suggest all of the claim language. For example, the applied art fails to teach or suggest preventing the formation of a neointima along a sheath's entire axial length, from a sheath's proximal end to its distal end, or at a sheath's proximal or distal end regions.

For at least this reason, Claims 1, 18, 19, and 31-34 distinguish over the applied art. Claims 2-17 depend from Claim 1, Claims 20-30 depend from Claim 19, and Claims 35-43 depend from Claim 34; therefore, Claims 2-17, 20-30, and 35-43 distinguish over the applied art as well. In addition, Claims 2-17, 20-30, and 35-43 distinguish over the applied art for the unique combination of features recited therein.

In addition, the applied art fails to teach or suggest an ePTFE layer having a microstructure that prevents tissue ingrowth, as recited in Claim 32. For example, the applied art fails to teach or suggest either tissue ingrowth completely or even partially through the ePTFE layer's wall. The term "tissue ingrowth" is intended to cover both complete and partial tissue ingrowth through or into an ePTFE layer's wall. Indeed, Applicant's own commercial product currently under development appears to prevent even partial tissue ingrowth into the ePTFE layer's wall. For these additional reasons, Claim 32 distinguishes over the applied art.

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New Claims

New Claim 44 finds support at least at paragraph [0075] of the application's publication (U.S. Publication No. 2005/0228480) and therefore, no new matter is presented with this claim. Furthermore, Claim 44 depends from Claim 34, and therefore distinguishes over the applied art for at least the same reasons provided above. In addition, Claim 44 distinguishes over the applied art for the unique combination of features recited therein.

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CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that this application is in condition for allowance and such action is respectfully requested. If any issues remain or require further clarification the Examiner is respectfully requested to call Applicants' counsel at the number indicated below in order to resolve such issues promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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